IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11991 of 2004

Between:

M/s Midland Industires Limited, Flat No.103,2nd Floor,

Megasri Classic Apartment, Dwarakapuri Colony,

Punjagutta, Hyderabad -500 082
Represented by its Managing Director Sri R.S.N.Raju

..... PETITIONER

AND

The Employees Provident Fund Organistation,

Sub-Accounts Office, Susheeram Complex,
Patancheru, Medak Distirct -502 319

Rep. by its The Asst. Provident Fund Commissioner

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the impugned proceedings No. AP/SAO/PTC/Enf.(Rec)/2004/627, dt. 28/06/2004 and notice of demand issued in respect of M/s Midland Industrial Limited. vide Proceedings No.AP. /17130/SAO/PTC/Enf. (Recy)/PDRC.No.162/04/647, dt. 1/07/2004 and Notice of demand issued in respect of M/s Agrobel Industries vide Proceedings NO.AP/24286/SAO/PTC/Enf. (Recy)/PDRC. No.161/04/645, dated 1/07/2004 issued by the Respondent herein as null and void, inoperative consequently to quash and set aside the same by issuing a writ of Certiorari or any other appropriate writ or order or direction or directions, as the Hon'ble Court deem fit and proper in the Circumstances of the cases and to allow the WP with Costs.

Counsel for the Petitioner : MR.P.NAGESWAR SREE

Counsel for the Respondent: MR.R.N.REDDY (SC FOR EMPLOYEES PF ORG.)

The Court at the admission stage made the following :

ORDER:

The petitioner seeks to challenge the proceedings No. AP/SAO/PTC/Enf. (Rec)/2004/627, dated 28.06.2004 and notice of demand issued in respect of M/s Midland Industrial Limited vide Proceedings No. AP/17130/SAO/PTC/Enf. (Recy)/PDRC.No.162/04/647, dated 1.07.2004 and Notice of demand issued in respect of M/s Agrobel Industries vide Proceedings NO.AP/24286/SAO/PTC/Enf. (Recy)/PDRC. No.161/04/645, dated 1.07.2004 issued by the Respondent as illegal and arbitrary.

The case of the petitioner is that due to financial crisis from 1996 various divisions of the petitioner company they were closed, and on an application filed by them, the Board for Industrial Financial Reconstruction declared the petitioner company as sick as per its order dated 1.4.2002. In spite of informing the said fact, it is the case of the petitioner that the respondent Authority issued the impugned notices seeking to impose penal damages under the provisions of Employees Provident Fund & Miscellaneous Provisions Act. The petitioner states that though they preferred appeals there before the Tribunal assailing the impugned, the same have not been disposed of, because the Tribunal is not headed by any Presiding Officer, and while the appeals are pending, the respondent Authority is proceeding to take coercive steps against the petitioner. Assailing the impugned action of the respondent, the present Writ Petition is filed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

The learned Standing Counsel for the respondent submits that the Tribunal is headed by a Presiding Officer and is functioning now.

Thereupon, the learned Counsel for the petitioner submits that the orders under impugned Proceedings may be stayed till the disposal of the appeals.

Having regard to the fact that the appeals filed by the petitioner assailing the impugned orders, are pending before the Appellate Tribunal at New Delhi, and in view of the fact that the Appellate Tribunal is functioning now and considering the submissions of the learned Counsel for the petitioner, I deem it appropriate to dispose of the writ petition in the following terms:

Pending appeals before the Appellate Tribunal at New Delhi, there shall be stay of all further proceedings in the Orders passed by the respondent vide Proceedings No.AP/SAO/PTC/Enf.(Rec)/2004/627, dated 28.6.2004 and the Demand Notices vide Proceedings No.AP/17130/SAO/PTC/Enf.(Recy)/PDRC. No.162/04/627, dated 1.7.2004 and Proceedings NO.AP/24286/SAO/PTC/Enf. (Recy)/PDRC. No.161/04/645, dated 1.07.2004, on condition of the petitioner depositing 50% of the amount demanded within six weeks from today. The respondent is directed not to take any coercive steps pending disposal of the appeals before the Appellate Tribunal at New Delhi. No costs.

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N.V. RAMANA, J

Date: July 14, 2004.

Note:

Issue C.C.

immediately.

(B/o)

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Assistant Provident Commissioner,

Employees Provident Fund Organistation,

Sub-Accounts Office, Susheeram Complex,
Patancheru, Medak Distirct -502 319

2. The Provident Fund Appellate Tribunal,

New Delhi.

3. Two CD copies.